

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rusty Hughell,

Petitioners-Appellants,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 10-77-0051

Parcel No. 312/03200-700-001

On April 7, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Rusty Hughell was self-represented. The Polk County Board of Review designated Assistant County Attorney Peter Blink as its legal representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Rusty Hughell is the owner of a residentially classified, single-family residence located at 12402 Ridgemont Drive, Urbandale, Iowa. The property is a two-story home built in 2004 and has 2190 square feet of total above-grade living area. It has 1074 square feet of unfinished basement. There is also a 630 square-foot, three-car, attached garage; a 120 square-foot wood deck; and a 54 square-foot open porch. The site is 0.417 acres.

Hughell protested to the Polk County Board of Review regarding the 2010 re-assessment allocated as follows: \$55,000 in land value and \$235,200 in improvement value for a total assessment of \$290,200. He asserted the total market value of the subject property was \$250,000.

Hughell's claim was based on the following grounds: 1) that the assessment was not equitable compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b).

The Board of Review granted the protest, in part, reducing the assessment to a total of \$279,500, allocated as \$55,000 in land value and \$224,500 in improvement value.

Hughell then appealed to this Board reasserting his claims. He now asserts the correct value of the subject property is \$254,800, allocated as \$55,000 in land value and \$199,800 in improvement value.

Hughell provided a spreadsheet with eight comparables which included five from his petition, three additional properties, and the subject. The spreadsheet is as follows:

Sales and Assessed Values Comparisons

	Address	Sq. Foot	Sales Price	Assessed Value	Assessed per foot
Subject	12402 Ridgemont Dr	2190	\$200,000	\$290,000	132
1	12418 Ridgemont Dr	2159	\$190,000	\$254,000	118
2	12502 Prairie Dr	2285	\$271,000	\$163,000	71
3	12405 Airline Ave	2416	\$273,000	\$246,300	102
4	12411 Airline Ave	2058	\$250,000	\$220,000	107
5	4144 BelAir Dr	2409	\$230,000	\$251,000	104
6	4118 BelAir Dr	2391	\$228,000	\$250,000	105
7	4106 127th St	2243	\$178,000	\$197,000	88
8	4308 131st Cr	2230	\$259,000	\$251,000	113
Average					104

Hughell noted on the bottom of the spreadsheet that the average assessed value per square foot, which if applied to his property, would indicate a value of \$228,583. We note that Hughell included the subject property in his calculation to arrive at the average. The subject should not have been included. Without the subject property, the average assessed value per square foot is \$101.

Hughell asserts in a June 2010 letter that he did not believe his petition or spreadsheet were considered by the Board of Review. However, Hughell did not provide further explanation of the

spreadsheet to this Board. No other information was provided about these properties and it is unknown if they have similar style, age, condition, quality, or amenities; or if they require any adjustment for those items. As such, we give this spreadsheet little consideration.

At hearing, Hughell presented evidence including a cost analysis from the Polk County Assessor's office, an "assessment analysis of bordering properties" spreadsheet, and a property-record card for 4122 Belair Drive, Urbandale, Iowa.

Hughell did not discuss the cost analysis.

The spreadsheet presented at hearing is as follows:

Assessment Analysis of Bordering Properties

	Address	Assessed Value	Sales Price	Sales Date	Square Footage	Assessed Value p/SF	Sales Values p/SF
Subject	12402 Ridgemont Dr	\$279,500	\$200,000	7/15/2009	2190	\$127.63	\$91.32
1	4019 Belair Dr	\$300,400	\$273,000	11/15/2010	2360	\$127.29	\$115.68
2	12405 Airline Ave	\$246,300	\$273,000	4/21/2010	2416	\$101.95	\$113.00
3	12411 Airline Ave	\$223,500	\$268,000	7/9/2010	2700	\$82.78	\$99.26
4	12406 Ridgemont Dr	\$260,500	\$279,000	5/10/2010	2657	\$98.04	\$105.01
5	4122 Belair Dr	\$252,200	\$230,000	7/30/2008	2200	\$114.64	\$104.55
	Average	\$260,400	\$253,833		2,421	\$109	\$105
	Corrected Average	\$256,580	\$264,600		2,467	\$105	\$107

The spreadsheet includes the "Average" for each column. However, the subject property again was included within the averages and should not be. The "Corrected Average" has been added and shows the average of the five comparables for each column.

Hughell testified that he believes this spreadsheet shows his property is not equitably assessed. It was not clear however, how he came to this conclusion; although it appears he believes since the average assessed value per square foot of \$109 (or \$105 corrected) is significantly below his assessed value per square foot of \$127.63, he is inequitably assessed. He testified that he thought the spreadsheet "speaks for itself."

We do not find this spreadsheet, or his testimony about it, to be sufficient in demonstrating inequity or market value. No information about the properties was presented with the exception of 4122 Belair Drive. Again, there is no information in the record about the condition, quality, age, or amenities of these properties that may impact value when compared to the subject property. It is not sufficient to compare the subject's assessed value per square foot to the average assessed value per square foot of a group of selected of properties. Similarly, there is no analysis in this spreadsheet regarding the market value of the subject compared to these properties. We find this evidence is lacking and is not sufficient for an equity or market value claim.

Hughell testified that he bought the subject property from the bank for \$200,000 in July 2009. However, the transaction was from a bank, apparently as the result of a foreclosure. Without any other explanation, this sale may be in the nature of a distress sale and have factors that distort the market value. Iowa Code § 441.21(1)(b). Hughell stated the purchase price did not reflect a "completed" home. He added roughly \$35,000 to "finish" the property. He testified that there were no counter-tops, plumbing, or light fixtures when he purchased the property and provided this Board with a two-page "closing statement" with a check list of items that were included in his \$35,000 additional cost. He also stated he had an appraisal completed for financing purposes at the time of closing. At our request, he supplied a copy of the appraisal.

The appraisal was completed by James D. Calvert of Calvert Appraisals, West Des Moines, Iowa. The appraisal was for mortgage financing purposes and has an effective date of May 5, 2009. Calvert developed the sales comparison and cost approaches to value.

Calvert concluded a value of roughly \$282,000 by the cost approach.

He included three comparables in his sales comparison approach, all located 0.09 to 0.60 miles from the subject. The unadjusted sales prices range from \$269,900 to \$309,000. Two of the sales sold in August and September 2008 and one sold in April 2009. After making adjustments for differences

such as age and size, the adjusted range of value is roughly \$268,000 to \$297,000. Calvert concluded a value of \$270,000 from this range, subject to the completion of unfinished items. Calvert estimated the “as is” value of the property at time of purchase as \$230,000. Calvert also noted the prior transfer of the subject property was a “deed in lieu of foreclosure.” While we do not find fault with Calvert’s appraisal, we do not believe that the use of two 2008 and one early 2009 sale is adequate to determine a January 1, 2010, market value.

Calvert describes the marketing time for the area as three to six months. He states predominant construction consists of two-story homes, and further notes that while market conditions had been slow, they are improving. He reports eighteen active comparable listings as of the date of his report, with an average list price of roughly \$294,000. He indicates the market is stable to increasing. There is no indication by Calvert that the subject property is different or atypical in any way that would limit the number of more recent comparable properties. Given these facts, we do not find the subject property to be so unique that more recent sales could not be relied upon to determine the January 1, 2010, value.

When questioned how he arrived at his market value claim of \$254,800, Hughell testified he was relying on the 2010 assessed value of 4122 Belair Drive. He stated this property was identical to his home, although it has a slightly larger site and is approximately 10 square feet different in size it is the same floor plan. He noted that this Board reduced the assessment on it and therefore felt his should be the same. The January 1, 2009, assessment of \$252,200 for 4122 Belair was set by this Board. The Polk County Assessor carried this over for the January 1, 2010, assessment. However, a market value claim is based upon a comparison to the sale of another property, not a comparison to its assessment. And again, we do not find the subject property to be so unique that more than one comparable would not be available for consideration and analysis.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject is assessed inequitably or over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is to determine the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Hughell provided a spreadsheet of bordering properties to support his assertion of inequity. However, information is lacking about the properties to determine their comparability to the subject property. Additionally, while the sales prices of each property are included, no information about those transactions is known. We do not find the information supplied sufficient to support an equity claim.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hughell provided a copy of an appraisal at the Boards request. We do not find the sales used in the appraisal, which occurred in 2008 and early 2009, to be reflective of a January 1, 2010, assessment date.

THE APPEAL BOARD ORDERS that the January 1, 2010 assessment of Rusty Hughell's property located at 12402 Ridgemont Drive, Urbandale, Iowa, is affirmed.

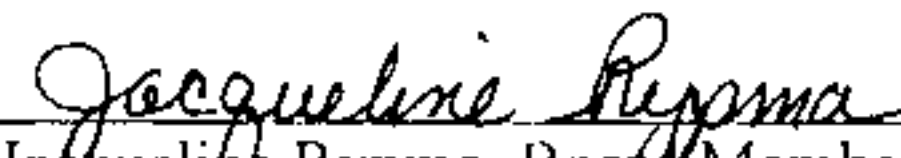
Dated this 1 day of June, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-1</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	